



THE CITY OF NEW YORK  
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September 12, 2013

**BY ECF**

Douglas C. Palmer, Esq.  
Clerk of the Court  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: Donald Franks v. City of New York, et al., 13 CV 623 (JBW) (VMS) and  
Phillip Sepulveda v. City of New York et al., 13 CV 4320 (SJ) (RLM)

Dear Mr. Palmer:

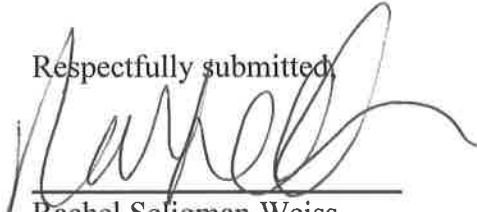
I am a Senior Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney for defendant City of New York in *Donald Franks v. City of New York*, 13 CV 623. Pursuant to Rule 50.3.1 (d) of the Guidelines for the Division of Business Among District Judges, defendant writes to respectfully request that it be determined that the *Franks* matter and the matter of *Phillip Sepulveda v. City of New York, et al.*, 13 CV 4320, are related. Defendant further requests that the *Sepulveda* matter be transferred to Judges Weinstein and Scanlon in order for the parties to move forward with the consolidation of these two cases. This office has consulted with plaintiff's counsel in both cases. Plaintiff Sepulveda's counsel, Rob Marinelli, Esq., consents to these requests, and Gabe Harvis, Esq., who represents plaintiff Franks, has indicated that he does not take a position on the instant application.

The two pending matters have similar factual and legal issues, which satisfies paragraph (a) of Rule 50.3.1 of the Guidelines for the Division of Business Among District Judges. The related actions stem from the same October 31, 2012 incident which resulted in the arrests of plaintiffs Donald Franks and Phillip Sepulveda for allegedly burglarizing a Key Foods Supermarket in the Coney Island section of Brooklyn following Hurricane Sandy. In fact, plaintiffs Sepulveda and Franks were just two of the many individuals arrested after the manager of the Key Foods Supermarket called 911 to report the burglary and after plaintiffs were observed running from the location once the police arrived on the scene. Upon information and belief, plaintiff Sepulveda was also found to be in possession of marijuana when he was arrested.

Plaintiffs in both cases are alleging that they were falsely arrested and maliciously prosecuted in connection with their October 31, 2012 arrests. Plaintiffs also generally allege a claim for municipal liability against the City of New York. As such, referring the this matter to Judges Weinstein and Scanlon would save judicial resources. *See* Rule 50.3.1, Guidelines for the Division of Business Among District Judges. Accordingly, we respectfully request that it be determined these two matters are related and that the *Sepulveda* matter be referred to Judges Weinstein and Scanlon, so that the parties can move forward with consolidation.

Thank you for your consideration herein.

Respectfully submitted,



Rachel Seligman Weiss

cc: BY ECF

Gabe Harvis, Esq.  
*Attorney for Plaintiff Franks*

Robert Marinelli, Esq.  
*Attorney for Phillip Sepulveda*

Honorable Jack B. Weinstein  
United States District Judge

Honorable Sterling Johnson  
United States District Judge

Honorable Vera M. Scanlon  
United States Magistrate Judge

Honorable Roanne L. Mann  
United States Magistrate Judge